

**E-Commerce Steering Group Co-Chairs' Report on the
APEC Data Privacy Workshop
February 13, 2003**

Summary

The Electronic Commerce Steering Group (ECSG) hosted an APEC Data Privacy Workshop on February 13, 2003, in Chiang Rai, Thailand. The Workshop focused on the importance of effective consumer privacy protection and uninterrupted trans-border data flows for the encouragement of e-commerce trade among and between APEC economies. The conference, keynoted by Kunying Dhipvadee Meksaawan, Permanent Secretary of the Ministry of Information and Technology, Thailand, drew speaker participation from 12 APEC economies and more than 75 workshop attendees representing business and consumer, academia and government, including data privacy commissioners.

Permanent Secretary Meksaawan noted, "APEC's diversity is its strength." Balanced privacy protection approaches, flexible implementation mechanisms, and respect for APEC diversity in facilitating cross-border data transfers became continuing discussion themes at the privacy workshop, particularly as speakers raised the merits of considering the development of a common set of data privacy principles relevant to APEC economies.

Permanent Secretary Meksaawan set the tone of the workshop by addressing the importance of developing an approach to privacy protection on a global level that will protect consumers and fuel e-commerce, while at the same time ensuring policies that promote growth in cross-border trade, online communications and innovation. She stressed the significance of promoting data privacy and information security protection in order to address consumer concerns about e-commerce transactions. Permanent Secretary Meksaawan also advocated addressing risk and fraud management in a manner that promotes sound policy through appropriate government action, as well as private sector self-regulatory initiatives, but in ways that neither stifle innovation nor impede market competition.

The workshop's formal program explored four broad discussion areas: (1) Addressing Privacy and Ensuring Global Information Flows: Business Perspectives; (2) Implementing Data Privacy Principles: How are Governments Making it Work in the Real World; (3) Enforcing Against Privacy Misrepresentations and the Misuse of Personal Data: The Relationship between Public Sector Enforcement and Self-Regulation; and (4) Building Compatible Approaches to Data Privacy Protection: Charting a Path for Data Privacy in APEC.

Along with written inputs by speakers and APEC economies, the following major contributions were passed on to the ECSG for consideration:

- The need for increased consumer and business sector public awareness on the benefits and risks associated with e-commerce, advances in/availability of Privacy

Enhancing Technologies, and appropriate steps for ensuring data privacy and security protection, including education initiatives on consumer rights and avenues for redress;

- That in addressing online privacy protection, a balanced approach must be taken with respect to the protection of data privacy – an approach that acknowledges the benefits of the free flow of information in increasingly information driven economies, with consumer requests for access to personalized information, as well as goods and services on a 24 hour a day, 7 day a week, 365 day a year basis, and their concerns about data privacy – in particular, the consequences of the misuse of their personal information;
- The reality that APEC economies are in different places along a spectrum of developing e-commerce infrastructures and are addressing related consumer protection issues and enforcement within their jurisdictions, including data privacy issues, and that there are differences in approaches;
- That despite variations across the APEC economies in legal frameworks and policy approaches to data privacy, there are discernible common elements in the approach APEC economies take to defining and implementing data privacy.
- The benefits to cooperation concerning trans-border data flows and regarding consumer protection and enforcement matters;
- That APEC economies could benefit from further sharing of information on data privacy approaches and lessons learned, including exploring the commonalities in their approaches and possibilities for accommodation of each others' local laws;
- That there may be benefits to APEC economies in looking at compatible global approaches to privacy protection to ensure cross-border data flows and privacy protection;
- That the OECD privacy guidelines may be a beginning point – not an end point, for discussion of flexible privacy principles, recognizing both their widespread influence and flexibility, but also that review is appropriate in developing guidance due to changes in the information environment since the OECD privacy guidelines were written
- That the unique characteristics and priorities of APEC economies should be taken into account; and
- That the ECSG may wish to consider in its 2003 work plan the outputs of the APEC Data Privacy Workshop, February 13, 2003, and the merits of beginning to consider:

- Expand participation in and build upon the existing data privacy survey work;
- Review this survey work to identify the common elements related to data privacy across the member economies;
- Explore how a set of APEC principles and a review of implementation and enforcement approaches across the APEC economies could help facilitate regional trans-border data flows and cooperation across enforcement bodies, both governmental and private sector;
- Further research into consumer expectations and demands for delivery of e-commerce services/goods and attendant data privacy expectations;
- Discussion of international approaches that could be used for mutual recognition of trans-border data flows and data privacy protections; and

The development of a common set of privacy principles relevant to APEC economies that could lead to predictable privacy expectations by consumers, businesses, and governments operating in the APEC forum.